

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

WELLS FARGO BANK, N.A.,
Plaintiffs,
vs.
ERIC HOYES,
Defendant.

Case No.: 12-CV-02509 YGR

ORDER GRANTING MOTION TO REMAND;
REMANDING ACTION; DENYING MOTION FOR
LEAVE TO PROCEED *IN FORMA PAUPERIS*

This case was removed from Alameda County Superior Court where it was pending as an unlawful detainer action against *pro se* Defendant Eric Hoyes. Mr. Hoyes removed this action pursuant to 28 U.S.C. § 1441 invoking this Court’s federal question jurisdiction under 28 U.S.C. § 1331 on the basis that he intends to raise a defense under the Protecting Tenants from Foreclosure Act (“PTFA”), 12 U.S.C. §§ 5201 *et seq.*

Plaintiff has filed a motion to remand on the grounds that Defendant has failed to establish the existence of federal subject matter jurisdiction.

The Court **GRANTS** the motion for remand because no federal question is presented in this action.¹

The complaint asserts only one state law claim for unlawful detainer. Thus, there is no federal question. A defense under the PTFA does not establish a basis for federal jurisdiction. *Caterpillar Inc. v. Williams*, 482 U.S. 386 (1987) (under the “well-pleaded complaint” rule, a case may not be removed on the basis of a federal defense). Finally, the amount in controversy does not meet the

¹ Pursuant to Federal Rule of Civil Procedure 78(b) and Civil Local Rule 7-1(b), the Court finds that this motion is appropriate for decision without oral argument. Accordingly, the Court **VACATES** the hearing set for July 17, 2012.

jurisdictional threshold of \$75,000.00 for diversity jurisdiction. Accordingly, this action must be remanded.

Plaintiff's Motion to Remand, Dkt. No. 11, is **GRANTED**. Defendant's Motion for Leave to Proceed *in Forma Pauperis*, Dkt. No. 2, is **DENIED AS MOOT**.

The Clerk of the Court is directed to **REMAND** this action to the Alameda County Superior Court.

This Order terminates Dkt. Nos. 2 & 11.

IT IS SO ORDERED.

Date: July 10, 2012


YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT COURT JUDGE